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08/650,709	05/20/96	ALBIN	D 7693-002-0

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EXAMINER	
DEXTER, C	
ART UNIT	PAPER NUMBER

3724
32
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No. 08/650,709	Applicant(s) Albin et al.
Examiner Clark F. Dexter	Group Art Unit 3724

Responsive to communication(s) filed on Mar 22, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

Claim(s) 2, 12, 13, 17-19, 21, 22, 26, and 27 is/are pending in the application.

Of the above, claim(s) 2, 12, 13, and 18 is/are withdrawn from consideration.

Claim(s) _____ is/are allowed.

Claim(s) 17, 19, 21, 22, 26, and 27 is/are rejected.

Claim(s) _____ is/are objected to.

Claims _____ are subject to restriction or election requirement.

Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The drawing(s) filed on _____ is/are objected to by the Examiner.

The proposed drawing correction, filed on Mar 22, 2000 is approved disapproved.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All Some* None of the CERTIFIED copies of the priority documents have been

received.

received in Application No. (Series Code/Serial Number) _____.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

Notice of References Cited, PTO-892

Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

Interview Summary, PTO-413

Notice of Draftsperson's Patent Drawing Review, PTO-948

Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. The amendment filed December 29, 1999 has been entered.

Drawings

2. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on March 22, 2000 have been approved-in-part.

The changes to Figures 1 and 3 have been **approved**.

The addition of new Figure 5 has been disapproved because, as previously stated in paragraph 5 of paper #28, applicants did not provide a basis in the original disclosure for the specific back-up roll configuration or did not state that such a back-up roll configuration is old and well known in the art.

3. The drawings stand objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "depressions" as set forth in claim 27 must be shown or the feature(s) cancelled from the claim(s). No new matter should be entered.

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Claim Rejections - 35 USC § 112

4. Claims 17, 19, 21, 22, 26 and 27 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification does not appear to provide sufficient support for a conveying device driven separately from the cutting roll as now set forth in the claims, particularly claim 26 (line 9). Rather, support appears to only be provided for the rotational rate of the cutter being greater than the conveying rate of the gel/conveyor. There is no disclosure of how these components are driven.

5. Claims 17, 19, 21, 22, 26 and 27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 26, line 9, structural cooperation is lacking for “a conveying device”, and further the limitation is vague and indefinite since (based on applicant’s remarks) the invention is being defined in terms of the workpiece (i.e., the gel) which is not part of the claimed invention (i.e., the device).

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Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 19 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson et al.

Johnson et al. discloses a cutting device with every structural limitation of the claimed invention including a cutting roll (e.g., 28) having at least one cross cutting element (e.g., 48) including a cutting edge, and a circumferentially extending cutting element (e.g., 46) including another cutting edge; a back-up roll (e.g., 26); and a conveying device (e.g., 14) which is driven separately from the cutting roll (i.e., wherein the cutting roll is driven by driving means 30).

Claim Rejections - 35 USC § 102/103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was

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commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 21 and 22 are rejected under 35 U.S.C. 102(b) as anticipated by Johnson et al. or, in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson et al. in view of Stream.

Johnson et al. discloses a cutting device with every structural limitation of the claimed invention including the back-up roll being coated with a plastic material (e.g., 36).

In the alternative, if it is argued that Johnson et al. does not specifically disclose that the coating material is plastic and more particularly the specific plastics recited in claim 22, the Examiner takes Official notice that it is old and well known in the art to provide plastic on an anvil or back-up roll as evidenced by Stream to enable the blade to press through the workpiece with sufficient pressure to cut the workpiece while not dulling the cutting edge of the blade. Therefore, it would have been obvious to one having ordinary skill in the art to make the resilient coating of Johnson et al. from plastic including the specific types of plastic recited in claim 22, to gain the well known advantages of plastic including increased durability and reduced manufacturing costs as well as the advantages taught by Stream. Further, one having ordinary skill in the art would clearly select a common form of plastic for the well known benefits including availability.

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Claim Rejections - 35 USC § 103

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. Johnson et al. discloses a cutting device with almost every structural limitation of the claimed invention but lacks a disclosure that the cross cutters are formed of flat steel polished on one side. However, the Examiner takes Official notice that it is old and well known in the art to provide cutting blades made of polished steel to keep the blades free of contaminants and to provide a blade having a cleaner appearance. Therefore, it would have been obvious to one having ordinary skill in the art to make the blades, including the cross cutters, of Johnson et al. of polished steel for the well known reasons including those described above.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. in view of Stream.

Johnson et al. discloses a cutting device with almost every structural limitation of the claimed invention but lacks depressions in the back-up roll. Stream discloses a back-up roll with depressions formed therein to receive the cutting edges of the blades of the cutter roller and teaches that this establishes a strong traction between the cutter roll and the back-up roll and further prevents wear of the backup roll. Therefore, it would have been obvious to one having ordinary skill in the art to provide depressions in the back-up roll of Johnson et al. to gain the well known advantages of plastic including increased durability and reduced manufacturing costs as well as the advantages taught by Stream..

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12. Claims 17-19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood in view of Williams.

Heywood discloses a device, particularly in Figures 1-4, with every structural limitation of the claimed invention including a cutting roll (F or G-G') with axially extending cross-cutting elements (e.g., "e") and radially extending longitudinal cutting elements (e.g., "c" or "d" or "I"), and a back-up roll (C) which is approximately parallel to the cutting roll. However, Heywood lacks a conveying device that is driven separately from the cutting roll. However, the Examiner takes Official notice that it is old and well known in the art to provide conveyors to move material from one work station (i.e., from storage, from a queue station, or from another processing apparatus) to another by independently driven conveyors to gain the benefits of automated operation (such as reduction of manpower) as well as the well known benefits of conveying devices such as efficient and continuous movement of material. For example, Williams discloses a conveying device (e.g., carrier belt 5) which is separately driven from the cutting device and is used to move the material onto another conveyor (e.g., carrier 3) for cutting thereof. As is well known in the art, these conveyors can be driven at any desired speed to provide a desired spacing of the material during the material processing (i.e., the speed at which material moves from one apparatus to the next is often different than that of the material through any one of the apparatus). Therefore, it would have been obvious to one having ordinary skill in the art to provide separately-driven conveyors to feed material to or from the device of Heywood for the well known benefits including those described above and further including those taught by Williams.

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Regarding claim 17, Heywood discloses flat cross cutters but lacks a disclosure that the cross cutters are formed of flat steel polished on one side. However, the Examiner takes Official notice that it is old and well known in the art to provide cutting blades made of polished steel to keep the blades free of contaminants and to provide a blade having a cleaner appearance. Therefore, it would have been obvious to one having ordinary skill in the art to make the blades, including the cross cutters, of Heywood of polished steel for the well known reasons including those described above.

13. Claims 21, 22 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heywood as applied to claim 26 above, and further in view of Stream.

Heywood lacks the back-up roll being coated with plastic and further lacks depressions in the surface of the back-up roll. However, Heywood discloses that the back-up roll is covered with a soft material, specifically “rawhide or any other suitable material”. Further, it is old and well known in the art to provide plastic on an anvil or back-up roll as evidenced by Stream to enable the blade to press through the workpiece with sufficient pressure to cut the workpiece while not dulling the cutting edge of the blade. Plastic coating is clearly a modern alternative to a rawhide coating, and the specific types of plastic set forth are common forms of plastic. Further, the plastic coating of Stream forms depressions to receive the cutting edges of the blades of the cutter roller and Stream teaches that this establishes a strong traction between the cutter roll and the back-up roll and further prevents wear of the backup roll. Therefore, it would have been obvious to one having ordinary skill in the art to replace the rawhide coating with plastic,

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particularly the notched coating of Stream, to gain the well known advantages of plastic including increased durability and reduced manufacturing costs as well as the advantages taught by Stream. Further, one having ordinary skill in the art would clearly select a common form of plastic for the well known benefits including availability.

Response to Arguments

14. Applicant's arguments filed December 29, 1999 have been fully considered but they are not persuasive.

In the fourth paragraph of the Remarks section on page 2 of the amendment, applicant argues that “[T]here is structural cooperation for the conveying device insofar as it is recited as conveying the layer of hydrous polymer gel to the nip.” However, such an explanation is not persuasive since the invention cannot be defined in terms of the workpiece since the workpiece is not part of the claimed invention.

Regarding the prior art rejection, the Examiner's position remains the same as previously described.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.

Communications via Internet e-mail regarding this application, other than those under 35 USC 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [rinaldi.rada@uspto.gov].

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All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 USC 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark Office on February 25, 1997 at 1195 OG 89.



**Clark F. Dexter
Primary Examiner
Art Unit 3724**

cf
June 5, 2000